

# TEXAS ETHICS COMMISSION

P.O. Box 12070, Capitol Station  
Austin, Texas 78711-2070

Paula M. Mendoza  
Chair

Jim Graham  
Vice Chair

David A. Reisman  
Executive Director

**RECEIVED**

**AUG 20 2010**

**OPINION COMMITTEE**



August 19, 2010

Commissioners

Jim Clancy  
Wilhelmina Delco  
Tom Harrison  
George H. "Trey" Henderson, III  
Tom Ramsay  
Chase Untermeyer

FILE # ML-46564-10  
I.D. # 46564

The Honorable Greg Abbott  
Attorney General of Texas  
Opinion Committee  
209 West 14th Street, 6th Floor  
Austin, Texas 78701

By: *Interagency Mail*

**RQ-0910-GA**

Dear General Abbott:

As the Executive Director of the Texas Ethics Commission, I am writing to request a written opinion on the interpretation of section 571.124(e) of the Government Code, which requires the Texas Ethics Commission (commission) to provide a copy of a complaint to the individual against whom the complaint was filed (respondent). The preliminary issue is whether the copy of the complaint provided to a respondent must include documents attached by a complainant to demonstrate eligibility to file the complaint. If documents attached to demonstrate eligibility must be included with a copy of a complaint to a respondent, a secondary issue is whether the commission is required to redact any personal information from the documents before providing copies of the documents.

As way of background, an individual may file a complaint with the commission alleging that a person subject to a law administered and enforced by the commission has violated a rule adopted by or a law administered and enforced by the commission. GOVT. CODE § 571.122(a). A complaint must be filed in accordance with section 571.122 of the Government Code. *Id.* Effective June 19, 2009, an individual must be a resident of this state or must own real property in this state to be eligible to file a complaint with the commission. *Id.* § 571.122(b-1). The statute enumerates the types of documents an individual may submit to demonstrate eligibility. A copy of one of the following documents must be attached to the complaint:

- (1) the complainant's driver's license or personal identification certificate issued under Chapter 521 of the Transportation Code, or commercial driver's license issued under Chapter 522 of the Transportation Code; or
- (2) a utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the complainant and is dated not more than 30 days before the date on which the complaint is filed;

Come visit our home page at <http://www.ethics.state.tx.us> on the Internet.

(512) 463-5800 • 1-800-325-8506 • FAX (512) 463-5777 • TDD 1-800-735-2989

The Texas Ethics Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

- (3) a property tax bill, notice of appraised value, or other government document that shows the name of the complainant and the address of real property in this state, and identifies the complainant as the owner of the real property.

*Id.*

The commission must determine whether a complaint filed with the commission complies with the form requirements of section 571.122 of the Government Code. *Id.* § 571.123(a). The commission is required to send written notice to the complainant and the respondent within five business days after a complaint is filed stating whether the complaint complies with the form requirements of section 571.122. *Id.* § 571.123(b). If the commission has jurisdiction over the violation(s) of law alleged in the complaint, the commission must provide a copy of the complaint with the written notice to the respondent. *Id.* § 571.124(e)(4). The commission must also provide a copy of the complaint to the respondent if the commission does not have jurisdiction over the violations of law alleged. *Id.* § 571.123(c).

The aforementioned provisions are silent on whether the commission must provide to a respondent a copy of the documents attached by a complainant as proof of residency or proof of ownership of real property in this state. Taking a strict interpretation of the law, we have taken the position that these documents are not part of a complaint but rather are separate documents submitted as evidence of a complainant's eligibility to file a complaint under section 571.122(b-1) of Government Code and, therefore, the documents are not required to be provided to a respondent.

If, however, you determine that the commission must provide to a respondent a copy of documents that are attached to a complaint to show residency or ownership of real property in this state, is the commission required to redact any personal information before providing copies of the documents, or are certain documents excepted from disclosure by other laws? Certain types of documents that may be submitted by a complainant to demonstrate eligibility may contain personal information such as the complainant's bank account number, driver's license number, date of birth, photograph, or other information protected from public disclosure by other laws. For example, section 552.130 of the Government Code excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state, or a personal identification document issued by an agency of this state. Other state or federal laws that require confidentiality or common law privacy may also apply to information contained within documents attached to a complaint to demonstrate eligibility to file a complaint.

Thank you for your consideration of this request. If you have any questions about this opinion request, please contact the commission's General Counsel, Natalia Luna Ashley at 512-463-5800.

Sincerely,



David A. Reisman  
Executive Director

c: Natalia Luna Ashley, General Counsel

DAR:my